

21 C.J.S. Courts § 262

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Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

VIII. Concurrent and Conflicting Jurisdiction

A. Courts of Same State

2. Transfer of Cases

a. In General

§ 262. Transfer of claims above or below monetary limits

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West's Key Number Digest

West's Key Number Digest, [Courts](#)  485, 486

Under statutes or rules so providing, where a counterclaim is filed exceeding the court's jurisdictional monetary limit, the entire case is to be transferred to a court which has jurisdiction; and where a court lacks jurisdiction because the claims before it do not exceed the court's monetary jurisdictional threshold, the court may remove the action to the appropriate court rather than dismiss it.

Where a court lacks jurisdiction because the claims before it do not exceed the court's monetary jurisdictional threshold, the court may remove the action to the appropriate court rather than dismiss it.¹

Under statutes or rules so providing, where a counterclaim is filed exceeding the court's jurisdictional monetary limit, the entire case is to be transferred to a court which has jurisdiction.² However, a court has no power to transfer a case on the basis of a plaintiff's supplemental complaint bringing total damages claimed to over the jurisdictional limit under a rule authorizing the court to transfer a case when a counterclaim, cross-claim, or third-party complaint exceeds the court's jurisdiction.³ Likewise, the filing of a counterclaim for unliquidated damages does not authorize a transfer under a statute providing that on filing a counterclaim for liquidated damages exceeding the jurisdiction of the court, the case may be transferred to a court having jurisdiction.⁴

A court is not required to transfer a noncompulsory or incidental counterclaim exceeding its subject matter jurisdiction even though it could do so, where the governing statute provides that when a compulsory demand exceeds the jurisdiction of the court, the court "shall" transfer the action, and when an incidental counterclaim exceeds the subject matter jurisdiction of the court, the court "may" transfer the action.⁵

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Footnotes

- 1 Mich.—*Boyd v. Nelson Credit Centers, Inc.*, 132 Mich. App. 774, 348 N.W.2d 25 (1984).
- 2 Cal.—*Brady v. Kobey*, 27 Cal. App. 2d 505, 81 P.2d 263 (2d Dist. 1938).

Ohio—*State, ex rel. Penn v. Swain*, 21 Ohio App. 3d 119, 486 N.E.2d 1187 (11th Dist. Lake County 1984).

Or.—*Flying Tiger Line, Inc. v. Portland Trading Co.*, 45 Or. App. 345, 608 P.2d 577 (1980).
- 3 Ohio—*State ex rel. National Employee Ben. Services, Inc. v. Court of Common Pleas of Cuyahoga County*, 49 Ohio St. 3d 49, 550 N.E.2d 941 (1990).
- 4 N.J.—*Brown v. Schwartz*, 11 N.J. Misc. 196, 165 A. 100 (Sup. Ct. 1933).
- 5 La.—*Metairie Bank and Trust v. Paradise Landscape, Inc.*, 763 So. 2d 572 (La. 2000).

As to the mandatory or discretionary nature of transfer, see § 261.